



DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB-2023-0012; Notice No. 230]

RIN: 1513-AD07

Proposed Establishment of the Nashoba Valley Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to establish the approximately 18,367-acre “Nashoba Valley” viticultural area in Worcester County, Massachusetts. The proposed viticultural area is not within any other established viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. TTB invites comments on this proposed addition to its regulations.

DATES: Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may electronically submit comments to TTB on this proposal using the comment form for this document posted within Docket No. TTB-2023-0012 on the *Regulations.gov* website at <https://www.regulations.gov>. At the same location, you also may view copies of this document, the related petition and selected supporting materials, and any comments TTB receives on this proposal. A direct link to that docket is available on the TTB Web site at <https://www.ttb.gov/wine/notices-of-proposed-rulemaking> under Notice No. 230. Alternatively, you may submit comments via postal mail to the Director,

Regulations and Ruling Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW, Box 12, Washington, DC 20005. Please see the **Public Participation** section of this document for further information on the comments requested on this proposal and on the submission, confidentiality, and public disclosure of comments.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury has delegated certain administrative and enforcement authorities to TTB through Treasury Order 120–01.

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of

petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features as described in part 9 of the regulations and, once approved, a name and a delineated boundary codified in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and allows any interested party to petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions to establish or modify AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;

- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Nashoba Valley Petition

TTB received a petition from Justin Pelletier, Chief Operating Officer and Quality Control Manager of Nashoba Valley Winery, proposing the establishment of the “Nashoba Valley” AVA on behalf of Nashoba Winery. The proposed AVA is located in Worcester County, Massachusetts, and contains approximately 18,367 acres. There are three vineyards covering a total of approximately 16 acres within the proposed AVA. According to the petition, the distinguishing features of the proposed Nashoba Valley AVA include its soils and climate. Unless otherwise noted, all information and data pertaining to the proposed AVA is from the petition and its supporting exhibits.

Name Evidence

According to the petition, Nashoba Valley is the name given to a region of Massachusetts in northwestern Middlesex and northeastern Worcester Counties that roughly encompasses the land around the interchange of Interstate 495 and Massachusetts Route 2. Although the name “Nashoba Valley” applies to the entire region, commercial viticulture currently occurs only in the Worcester

County portion of the valley. Therefore, the proposed Nashoba Valley AVA is limited to the portion of the valley that is in Worcester County.

The petition included multiple examples of businesses and organizations located within or serving the region of the proposed AVA that use the name “Nashoba Valley.” The Nashoba Valley Ski Area and Nashoba Valley Tubing Park are recreational areas, and Nashoba Valley Winery and Nashoba Valley Spirits produce alcohol beverages within the proposed AVA. The proposed AVA is served by the Nashoba Valley Chamber of Commerce, and the Nashoba Valley Regional Dispatch District answers emergency and non-emergency public safety calls within the region. The Nashoba Valley Voice covers local news within the proposed AVA. Other businesses within or serving the proposed AVA include Nashoba Valley Fitness, Nashoba Valley Express Company, Nashoba Valley Movement Dance Studio, COWS of Nashoba Valley, Oh Deer of Nashoba Valley, Nashoba Valley Elder Care, and Life Care Center of Nashoba Valley.

Boundary Evidence

The northern boundary of the proposed Nashoba Valley AVA follows Massachusetts Route 117 to separate the proposed AVA from Fort Devens and the Bolton Flats Wildlife Management Area, neither of which are available for commercial viticulture. The proposed eastern boundary follows Interstate 495 to separate the proposed AVA from regions with climates that are more heavily influenced by the Atlantic Ocean and Cape Cod Bay. The proposed southern boundary follows a series of roads that separate the proposed AVA from the Wachusett Reservoir and, farther south, the city of Worcester and its suburbs. According to the petition, Worcester was historically a manufacturing town and, as a result, has little land available for commercial agricultural activities. The

proposed western boundary follows Interstate 190 and separates the proposed AVA from areas with soils and climates that differ from the proposed AVA.

Distinguishing Features

The distinguishing features of the proposed Nashoba Valley AVA include its soils and climate.

Soils

The petition states that most of the soil within the proposed Nashoba Valley AVA has parent soil of supraglacial till, subglacial till, alluvial deposits, and glaciofluvial deposits. The petition notes that soils within the proposed AVA are classified by the U.S. Department of Agriculture (USDA) as “prime farmland,” which means that they have specific physical and chemical characteristics that make them well suited for growing crops.¹ The most common soils in the proposed AVA belong to the Paxton soil series and comprise approximately 21 percent of the soils in the AVA. These soils are well-drained loamy soils and are moderately deep to very deep. The soil depth allows for unobstructed root growth, as roots can penetrate moderately deeply before hitting denser soils and very deeply before touching bedrock. The petition states that the soils promote strong root systems that allow grapevines to survive the harsher winters within the proposed AVA. The petition also states that the soils promote strong root systems that allow grapevines to survive the harsher winters within the proposed AVA. Paxton soils also have high saturated hydraulic conductivity values, which means that water moves quickly through the soil. The petition states this soil characteristic is essential for successful viticulture as it aids in minimizing fungal infections and rot.

¹ See Appendix C to the petition in Docket No. TTB–2023–0012 at <https://www.regulations.gov>.

To the immediate north of the proposed AVA are Fort Devens and the Bolton Flats Wildlife Management Area, which are not available for commercial viticulture. Further north, the soils have a slower water infiltration rate and do not drain as quickly as soils within the proposed AVA. East of the proposed AVA, the soils have a very slow water infiltration rate and a high-water table, increasing both the risk of flooding and fungal disease in vineyards. The region south of the proposed AVA is largely urban, with little land left open for agriculture to occur. The petition notes that what open land does exist is not classified as “prime farmland” by the USDA. To the west, the soils are shallower than within the proposed AVA and have a slow water infiltration rate.

Climate

The petition states that the proposed Nashoba Valley AVA has a warm climate suitable for growing grape varieties such as Albarino, Cabernet Franc, Chardonnay, Riesling, and St. Croix, among others. Throughout the growing season, average monthly temperatures range from a low of 47 degrees Fahrenheit (F) to 72 degrees F. July is typically the warmest month when the average high temperature is 82 degrees F. The proposed Nashoba Valley AVA has an average of 1,697 growing degree days (GDDs)² calculated in degrees Celsius³, which places it in Region III of the Winkler system.

According to the petition, wind is another climate factor that affects viticulture within the proposed AVA. The petition states that between March and

² See Albert J. Winkler, *General Viticulture* (Berkeley: University of California Press, 1974), pages 61–64. In the Winkler climate classification system, annual heat accumulation during the growing season, measured in annual Growing Degree Days (GDDs), defines climatic regions. One GDD accumulates for each degree Celsius that a day’s mean temperature is above 10 degrees C, the minimum temperature required for grapevine growth. The Winkler scale regions are as follows: Region Ia, 850–1,111 GDDs; Region Ib, 1,112–1,389 GDDs; Region II, 1,390–1,667 GDDs; Region III, 1,668–1,944 GDDs; Region IV, 1,945–2,222 GDDs; Region V, 2,223–2,700 GDDs.

³ Unless otherwise noted, all GDD accumulations listed in this document are in degrees Celsius.

May, average wind speeds within the proposed AVA range from 6.6 to 4.7 miles per hour. In the springtime, air movement through the vineyards can reduce the risk of frost damage to new tender shoots and buds. However, more intense winds during the same period can damage shoots and flowers, which will lead to a smaller harvest. During the summer months of June to August, average wind speeds range from 4.2 to 3.9 miles per hour. According to the petition, humidity increases and rainstorms are common within the proposed AVA during the summer, so the gentle winds can decrease the time it takes for vineyards to dry and lessen the potential for molds and mildews to form.

To the north, the town of Fitchburg has a cooler climate than the proposed AVA. Fitchburg's average GDD accumulations total 1,536, placing it in the Region II category. Average monthly temperatures are lower for each month except July, when they are the same as the average monthly temperature for the proposed AVA. Additionally, Fitchburg has lower monthly average wind speeds. To the east, the city of Waltham's average GDD accumulations place it in the Region III category, which is the same as the proposed AVA. However, Waltham still has higher average GDD accumulations than the proposed AVA, with 1,738 GDDs. Waltham also has higher average monthly wind speeds than the proposed AVA, ranging from 4.3 to 7.6 miles per hour. South of the proposed AVA, the city of Worcester's climate is classified as Region II, with an average accumulation of 1,598 GDDs. During the growing season, Worcester also has slightly lower average monthly temperatures and average monthly wind speeds than the proposed AVA. To the west of the proposed AVA, the town of Barre also has a Region II climate, with average accumulations of 1,548 GDDs and lower average monthly temperatures throughout the year. Average monthly wind

speeds in Barre are also lower each month than wind speeds within the proposed AVA.

Summary of Distinguishing Features

The following table summarizes the features of the proposed Nashoba Valley that distinguish it from the surrounding regions.

Features of the Proposed Nashoba Valley AVA and Surrounding Regions

Region	Features	
	Soils	Climate
Proposed AVA	Derived from supraglacial till, subglacial till, alluvial deposits, and glaciofluvial deposits; classified as “prime farmland”; Paxton series is most prevalent; deep, well-drained loams	Average monthly growing season temperatures range from 47 to 72 degrees F; average of 1,697 GDDs (Celsius); Winkler Region III; growing season wind speeds range from 6.6 to 4.7 mph
North	Slow water infiltration rate	Cooler climate with lower average monthly temperatures; average of 1,536 GDDs; Winkler Region II; lower wind speeds
South	Little land open for agricultural purposes; land not classified as “prime farmland”	Cooler climate with slightly lower average monthly temperatures; average of 1,598 GDDs; Region II; lower average monthly wind speeds

East	Very slow water infiltration rate and high-water table	Average of 1,738 GDDs; Region III; higher average monthly wind speeds
West	Shallower soils with slow water infiltration rate	Cooler climate with lower average monthly temperatures; average of 1,548 GDDs; Region II; lower average monthly wind speeds

TTB Determination

TTB concludes that the petition to establish the proposed Nashoba Valley AVA merits consideration and public comment, as invited in this notice of proposed rulemaking.

Boundary Description

See the narrative description of the boundary of the petitioned-for AVA in the proposed regulatory text published at the end of this proposed rule.

Maps

The petitioner provided the required maps, and TTB lists them below in the proposed regulatory text. You may also view the proposed Nashoba Valley AVA boundary on the AVA Map Explorer on the TTB website, at <https://www.ttb.gov/wine/ava-map-explorer>.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the

wine must meet the other conditions listed in § 4.25(e)(3) of the TTB regulations (27 CFR 4.25(e)(3)). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label.

Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label.

Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See § 4.39(i)(2) of the TTB regulations (27 CFR 4.39(i)(2)) for details.

If TTB establishes this proposed AVA, its name, “Nashoba Valley,” will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the proposed regulation clarifies this point. Consequently, wine bottlers using the name “Nashoba Valley” in a brand name, including a trademark, or in another label reference as to the origin of the wine, would have to ensure that the product is eligible to use the AVA name as an appellation of origin if TTB adopts this proposed rule as a final rule.

Public Participation

Comments Invited

TTB invites comments from interested members of the public on whether it should establish the proposed Nashoba Valley AVA. TTB is also interested in receiving comments on the sufficiency and accuracy of required information submitted in support of the petition. Please provide specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Nashoba Valley AVA on wine labels that include the term “Nashoba Valley” as discussed above under **Impact on Current Wine Labels**, TTB is particularly

interested in comments regarding whether there will be a conflict between the proposed AVA name and currently used brand names. If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any anticipated negative economic impact that approval of the proposed AVA will have on an existing viticultural enterprise. TTB is also interested in receiving suggestions for ways to avoid conflicts, for example, by adopting a modified or different name for the proposed AVA.

Submitting Comments

You may submit comments on this proposal by using one of the following methods:

- *Federal e-Rulemaking Portal:* You may send comments via the online comment form posted with this document within Docket No. TTB–2023–0012 on “*Regulations.gov*,” the Federal e-rulemaking portal, at <https://www.regulations.gov>. A direct link to that docket is available under Notice No. 230 on the TTB Web site at <https://www.ttb.gov/wine/notices-of-proposed-rulemaking>. Supplemental files may be attached to comments submitted via *Regulations.gov*. For complete instructions on how to use *Regulations.gov*, visit the site and click on the “FAQ” link at the bottom of the page.

- *U.S. Mail:* You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW, Box 12, Washington, DC 20005.

Please submit your comments by the closing date shown above in this document. Your comments must reference Notice No. 230 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we consider all comments as originals.

Your comment must clearly state if you are commenting on your own behalf or on behalf of an organization, business, or other entity. If you are commenting on behalf of an organization, business, or other entity, your comment must include the entity's name as well as your name and position title. If you comment via Regulations.gov, please enter the entity's name in the "Organization" blank of the online comment form. If you comment via postal mail, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

Public Disclosure

TTB will post, and you may view, copies of this document, selected supporting materials, and any online or mailed comments received about this proposal within Docket No. TTB–2023–0012 on the Federal e-rulemaking portal, *Regulations.gov*, at <https://www.regulations.gov>. A direct link to that docket is available on the TTB Web site at <https://www.ttb.gov/wine/notices-of-proposed-rulemaking> under Notice No. 230. You may also reach the relevant docket through the *Regulations.gov* search page at <https://www.regulations.gov>. For instructions on how to use *Regulations.gov*, visit the site and click on the "FAQ" link at the bottom of the page.

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address

information, including e-mail addresses. TTB may omit voluminous attachments or material that it considers unsuitable for posting.

You may also obtain copies of this proposed rule, all related petitions, maps, and other supporting materials, and any electronic or mailed comments that TTB receives about this proposal at 20 cents per 8.5- x 11-inch page. Please note that TTB is unable to provide copies of USGS maps or any similarly-sized documents that may be included as part of the AVA petition. Contact TTB's Regulations and Rulings Division by e-mail using the web form at <https://www.ttb.gov/contact-rrd>, or by telephone at 202-453-1039, ext. 175, to request copies of comments or other materials.

Regulatory Flexibility Act

TTB certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993, as amended. Therefore, no regulatory assessment is required.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, TTB proposes to amend title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

2. Subpart C is amended by adding § 9.____ to read as follows:

§ 9.____ Nashoba Valley.

(a) *Name.* The name of the viticultural area described in this section is “Nashoba Valley”. For purposes of part 4 of this chapter, “Nashoba Valley” is a term of viticultural significance.

(b) *Approved maps.* The 2 United States Geological Survey (USGS) 1:100,000 scale topographic maps used to determine the boundary of the Nashoba Valley viticultural area are:

(1) Hudson, MA, 2021; and

(2) Clinton, MA, 2021.

(c) *Boundary.* The Nashoba Valley viticultural area is located in Worcester County, Massachusetts. The boundary of the viticultural area is as described as follows:

(1) The beginning point is on the Hudson map at the intersection of Route 62 (also known as Central Street) and I-495 in Hudson, Massachusetts. From the beginning point, proceed southwest, then westerly on Route 62 for a total of 4.5 miles, crossing onto the Clinton map, to the point where it intersects and becomes concurrent with Route 70 (also known as Boylston Street); then

(2) Proceed north on Route 70/Route 62 for 2.09 miles to its intersection with Route 110/Main Street in Clinton, Massachusetts; then

(3) Proceed south on Route 110/Main Street as it becomes known as West Boylston Road, and continue along West Boylston Road for a total of 1 mile to its intersection with South Meadow Road; then

(4) Proceed north along South Meadow Road for 0.95 mile to its intersection with Moffett Street in Lancaster, Massachusetts; then

(5) Proceed northwest along Moffett Street to its intersection with an unnamed road known locally as Chace Hill Road; then

(6) Proceed northeast along Chace Hill Road to its intersection with Sterling Street (also known as Route 62); then

(7) Proceed northwesterly along Sterling Street/Route 62 to its intersection with an unnamed road known locally as Chocksett Road; then

(8) Proceed northwesterly along Chocksett Road to its intersection with Pratts Junction Road; then

(9) Proceed northwesterly along Pratts Junction Road to its intersection with I-190; then

(10) Proceed northerly along I-190 for 2.35 miles to its intersection with Route 117 in Leominster, Massachusetts; then

(11) Proceed southeasterly along Route 117 for 7.8 miles, crossing onto the Hudson map, to its intersection with I-495; then

(12) Proceed southerly along I-495 to the beginning point.

Signed: December 19, 2023.

Mary G. Ryan,

Administrator.

Approved: December 20, 2023.

Thomas C. West, Jr.,

Deputy Assistant Secretary

(Tax Policy).

[FR Doc. 2024-00060 Filed: 1/4/2024 8:45 am; Publication Date: 1/5/2024]